

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

<b>MIREILLE M. LEE,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 3:20-cv-00924</b>
	)	
<b>v.</b>	)	<b>Judge Richardson</b>
	)	<b>Magistrate Judge Frensley</b>
<b>THE VANDERBILT UNIVERSITY,</b>	)	
	)	<b>JURY DEMAND</b>
<b>Defendant.</b>	)	

**DEFENDANT THE VANDERBILT UNIVERSITY’S MEMORANDUM OF LAW  
IN SUPPORT OF ITS UNOPPOSED MOTION TO SEAL LEE’S RESPONSE TO  
VANDERBILT’S SUPPLEMENTAL AUTHORITIES**

Defendant The Vanderbilt University (“Vanderbilt”) moves for leave to have Plaintiff Mireille Lee’s Response to Vanderbilt’s Supplemental Authority (Dkt. No. 136) (“Lee’s Response”) and Exhibit 1 to Lee’s Response, filed under seal pursuant to Federal Rule of Civil Procedure 5.2 and Local Rule 5.03 and consistent with the Court’s protective order in this case (Dkt. No. 70) and the Court’s orders sealing other documents containing the same or similar information. *See, e.g.*, Dkt. Nos. 145, 146.

**I. Background**

On January 18, 2022, the Court issued an order requiring the parties to attempt to resolve the outstanding dispute by agreement and, if unable to do so, to file any supplemental authority with the Court by January 21, 2022. (Dkt. No. 131.) Because the parties were unable to reach resolution, Vanderbilt filed its Supplemental Authority Related to the Deposition Testimony and Representation of Third-Party Witness, Beverly Moran (“Vanderbilt’s Brief”) pursuant to the Court’s order. *See* Dkt. Nos. 134, 135. Vanderbilt’s Brief provided supplemental authority and argument regarding the role of Mr. Braun and his agents at the deposition of third-party witness,

Beverly Moran. The subject matter of Vanderbilt's Brief was of such a confidential, private, or sensitive nature that redaction of that information was warranted.

In response to Vanderbilt's Brief, Lee filed Lee's Response and a corresponding Exhibit on January 23, 2022. (Dkt. Nos. 136, 136-1.) Like Vanderbilt's Brief, the information contained in Lee's Response addresses issues related to a confidential document and other confidential aspects of Ms. Moran's role at Vanderbilt, including confidential, private, and sensitive information requiring confidential treatment. Nevertheless, Lee's Response and its exhibit were not redacted or filed under seal pursuant to the Protective Order. Counsel for Vanderbilt asked counsel for Plaintiff to withdraw these documents and re-file them under seal; counsel for Plaintiff refused to do so but agreed to join and not to oppose a motion to seal them.

The Court has granted motions to file under seal other documents containing confidential information of the same or a similar type and regarding the same agreement over the last three weeks. *See, e.g.*, Dkt. Nos. 145, 146.

## **II. Argument**

Filing under seal is necessary to protect the confidential information set forth in Lee's Response and its exhibit from public disclosure. Vanderbilt strictly maintains the confidentiality of the information set forth in Lee's Response, including the agreement referred to therein.

While few cases address the question of sealing documentation that refers to terms of a settlement agreement, this is likely because trial judges regard it as self-evident that secrecy is often necessary and therefore order such documents to be filed under seal as a matter of course. This conclusion is supported by references to such sealings made without comments or challenge in reported and unreported cases. *See e.g., Interline Brands, Inc. v. Watts Regulator Co.*, No. 3:18-CV-0559, 2018 WL 6615093, at \*1 (M.D. Tenn. Nov. 13, 2018) (granting motion to seal where

pleading contained “sensitive and confidential settlement negotiations,” including a settlement amount); *Marine Midland Bank, N.A. v. Kilbane*, 739 F.2d 958, 959 (4th Cir. 1984) (“The case was settled and the Florida state court ordered that the case file be sealed and that the terms of the settlement agreement remain undisclosed to the public.”); *Owen v. United States*, 713 F.2d 1461, 1462 (9th Cir. 1983) (“This settlement was placed under seal by the district court...”); *E.E.O.C. v. Strasburger, Price, Kelton, Martin and Unis*, 626 F.2d 1272, 1274 (5th Cir. 1980). The practical and recognized privacy interest in such confidential information encompasses some of the information set forth in the Lee Response and its exhibit.

The requested relief is narrowly tailored to ensure that the information removed from view is that requiring confidential treatment.

If the Court grants Vanderbilt’s motion, Vanderbilt requests that the Court order Lee’s Response and its exhibit to be placed under seal. Counsel for the moving party reached out to Plaintiff’s counsel about the relief requested in this Motion, and Plaintiff’s counsel indicated that it is unopposed.

### **III. Conclusion**

Accordingly, Vanderbilt respectfully requests that the Court grant its Motion, sealing Lee’s Response and its exhibit (Dkt. Nos. 136, 136-1). Additionally, Vanderbilt requests that the Court enter an order requiring Plaintiff to pay Vanderbilt’s fees and costs incurred filing its Motion and this Memorandum of law, along with such additional relief as this Court deems appropriate.

Respectfully submitted,

s/ John W. Borkowski  
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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing was filed electronically via the CM/ECF electronic filing system, which forwarded a copy to the following:

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*s/ John W. Borkowski* \_\_\_\_\_